

THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS

GALVESTON DIVISION

HAROLD L. PHILLIPS	§	
	§	
VS.	§	CIVIL ACTION NO. G-04-006
	§	
STATE OF TEXAS, ET AL.	§	

OPINION AND ORDER

Before the Court is a Report and Recommendation from the United States Magistrate Judge which recommends that the Complaint of Plaintiff, Harold L. Phillips, be dismissed with prejudice as a result of Phillips' failure to make or cooperate in discovery. The Magistrate further recommends that appropriate sanctions be imposed upon Phillips. Phillips has filed untimely objections to the Report and Recommendation which offer excuses, but concede, that he has still failed to completely respond to the Defendant's discovery requests. In his objections, Phillips does not even offer an explanation for why he failed to appear for his noticed deposition on January 31, 2006. Further, in his "Partial Answer to First Set of Interrogatories" Phillips gave absolutely no answer to Interrogatory No. 9 which addressed the sole remaining claim asserted by Phillips, the alleged illegal search of his home for children by three employees of the Texas Department of Family and Protective Services. Phillips' pro se status cannot excuse blatant violations of the Federal Rules of Civil Procedure.

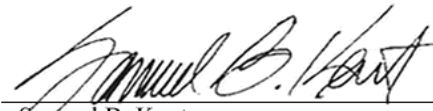
Upon *de novo* review, pursuant to 28 U.S.C. § 636(b)(1)(c), this Court finds that the Report and Recommendation is a well reasoned and appropriate application of the Federal Rules of Civil Procedure to Phillips' Complaint and it is, therefore, **ACCEPTED** by this Court in its entirety and incorporated by reference herein.

It is, therefore, the **ORDER** of this Court that the Complaint of Harold L. Phillips, is **DISMISSED with prejudice**.

It is further **ORDERED** that Phillips **SHALL** pay to the Defendants attorney' s fees in the amount of **\$1,500.00** and reasonable expenses in the amount of **\$1,300.00** as a result of his discovery abuses.

For the foregoing reasons, Phillips " Motion to Compel" (Instrument no. 31) is **DENIED**.

DONE at Galveston, Texas, this 20th day of April, 2006.



Samuel B. Kent
United States District Judge